

III. REMARKS

1. Claims 1, 9, 26 and 27 are amended. Claims 17 and 18 are cancelled without prejudice.

2. Claims 1-5, 9-10, 12, 20-21, and 26 are not anticipated by Tuttle under 35 U.S.C. §102(e).

Claims 1 and 26 are amended to recite that the communications device establishes a connection with the closest another party from a plurality of another parties. This is not disclosed or suggested by Tuttle.

Applicant's invention as recited in the claims is directed to a communications device that attempts to connect to another party by increasing the transmit signal power from a low level until a connection is made, and then increasing the signal power to a higher level used for normal communications. While attempting to connect, the signal power can be increased to a maximum level. However, this "maximum value", during the attempt to connect period, is lower than the power level that is used once the connection is established and during normal communications. The aim of this is to connect to the closest party to the device. These features are not disclosed or suggested by Tuttle.

Tuttle does not disclose or suggest a signal level that has a "maximum value" to which its invention is increased during an attempt to establish a connection or that the "maximum value" is less than the signal level used when a connection with another party has been established. Tuttle does not make any distinction between the maximum power under which a connection is established and the transmission power during the communication. Tuttle seeks to connect to a RFID and can increase to the full amount of

transmission power while trying to connect even if it is the full amount of power for normal communications. Applicant clearly recites in the claims that, in its invention, these levels are not the same.

The Examiner points to steps 5 and 7 of the flow chart in FIG. 1 as indicating that once a connection is made, the power is increased. However, it is respectfully submitted that the "higher level" (Col. 2, line 45 and step 5 of FIG. 1) and the "maximum allowable transmitter level" (Col. 2, line 59 and step 7 of FIG. 1) refer to the same value of the transmitter power. This is quite different from what is being claimed by Applicant.

In Applicant's invention, while the communications device is attempting to connect to another party, the transmit signal power is increased from a low level until a connection is made. During this period while the communications device is attempting to connect, the transmit signal power can only be increased to a "maximum value". This "maximum value" is however, less than the signal level used when the connection with the another party has been established. Tuttle does not disclose or suggest this.

In Applicant's invention, communication is set up between the point of sale device and the closest mobile station, out of a potentially large number of mobile stations. A very important distinction is that the system not be keep looking for mobile stations that are further and further away from the point of sale terminal. If a transaction is taking place between the point of sale device and the desired mobile station, then it is certain that the mobile station and the point of sale device are in very close proximity to each other. It would not be suitable for the system to keep increasing power to find mobile stations at increasing distances away, since after a certain distance from

the point of sale device, the mobile stations cannot be associated with the required transaction. This is the reason for the distinction of having a maximum transmit power value during connection establishment that is lower than the transmit power used after the connection is established.

Tuttle is directed to connecting to a particular RFID tag, regardless of how far away from the transmitter it is. Tuttle does not make any disclosure or suggestion regarding limiting the power at which the device tries to connect. For example, referring to FIG. 1, step 6 of Tuttle, if the RFID tag was the furthest possible distance away from the transmitter, such that it required the maximum transmitter power to connect, the power is already increased to the maximum. This power cannot be increased to a "high level" or "higher" level in step 7, as in Applicant's invention, because it already is at the highest level of power, and it is this maximum transmitter power or "high level" that is used for, and during, the connection in Tuttle.

Thus, Tuttle is quite different from Applicant's invention, where the communications device, as it is trying to connect to the closest mobile station, only increases the connection power level to a "maximum value", during the connection attempt. The "maximum value" is not the same as, and is less than, the "signal level used when a connection with the other party has been established." (see claim 1).

Tuttle does not disclose or suggest this, and thus cannot anticipate claims 1 and 26. Claims 2-5, 10, 12, and 20-21 should be allowable at least by reason of their respective dependencies.

The features of claim 18 have been incorporated into claims 1 and 26. Claim 18 was previously rejected over the combination Tuttle

in view of Meng pursuant to 35 U.S.C. §103(a). However, it is submitted that Tuttle in view of Meng does not disclose or suggest these particular features.

Neither Tuttle nor Meng disclose or suggest a communications device establishing a "connection with the closest another party" as is recited by Applicant in the claims. Meng discloses a system for adapting the data-rate of a communications link, depending on the distance from the base station (i.e. the power used). Meng makes no mention of, and does not teach, attempting to "establish a connection with another party" as claimed by Applicant.

Even in the embodiment of Meng that uses multiple base stations and multiple mobile stations, there is no disclosure or suggestion of establishing a connection with the closest another party as claimed by Applicant. Thus, claims 1 and 26 should be allowable.

With respect to claim 9, claim 9 recites means for receiving a signal and means for controlling the signal level with which the signal is received. The control means comprises an attenuator that maintains the signal level "initially relatively low" and, when a connection is established, increases the signal level. Claim 9 also recites that communications device attempts to establish a connection with a closest another party. These features are not disclosed or suggested by Tuttle.

In claim 9, the communications device, when attempting to connect with an another party, controls the signal level with which the signal from that another party is received. Initially, the signal level of the received signal is kept at a low level. The received signal level is increased until the connection is made

but does not exceed a maximum value. There is no mention in Tuttle of being able to control the signal level in the received path. Tuttle only discloses control of the transmit powers. What is disclosed in Tuttle is the decoding of a signal from the receive path, which is then used to set the transmit power for the RFID tag. However, this is not the same as controlling the actual received signal level through the use of an attenuator as is Applicant's invention. In Applicant's invention, when the connection is established, the signal level of the received signal is increased to a level that exceeds the maximum level. This is not disclosed or suggested by Tuttle for reasons similar to those stated with respect to claims 1 and 26.

Further, the features of claim 17 are now incorporated into claim 9, which recites the use of an attenuator. Tuttle does not disclose or suggest the use of an attenuator. Claim 17 was previously rejected over the combination of Tuttle and Beamish. However, claim 9 now recites that the communications device attempts to establish a connection with a closest another party. There is no disclosure or suggestion of this in the proposed combination of references, and additionally, there would be no motivation to combine the references for the purpose of achieving Applicant's invention. Thus, claim 9 should be allowable.

3. Claim 22-23 are not unpatentable over Tuttle in view of Meng under 35 U.S.C. §103(a) at least by reason of their respective dependencies and the reasons stated above.

4. Claims 19 and 24-25 are not unpatentable over Tuttle in view of Pitroda et al. ("Pitroda") (U.S. Patent No. 6,705,520) at least by reason of their respective dependencies and the reasons stated above.

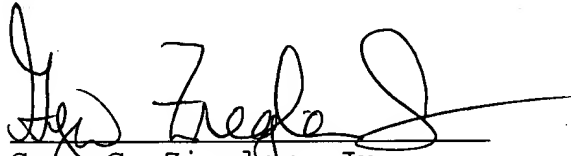
5. Claims 11, 13-16 and 27 are not unpatentable over Tuttle in view of Beamish under 35 U.S.C. §103(a). Claims 11 and 13-16 should be allowable at least by their respective dependencies.

Claim 27, as amended, is not disclosed or suggested by Tuttle in view of Beamish. Claim 27 recites that the received signal level is controlled through attenuation and that the communications device attempts to establish a connection with a closest another party. As stated earlier, these features are not disclosed or suggested by Tuttle in view of Beamish. Beamish does not disclose or suggest attempting to connect to the closest another party or using different attenuation levels during connection attempts and normal operation. Beamish is directed to reducing a power of a received signal prior to processing. This is not the same as what is being claimed by Applicants. Thus, claim 27 should also be allowable. Claims 11 and 13-16 should be allowable by reason of their dependencies.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check including amounts for the RCE fee and a three-month extension of time is enclosed herewith. The Commissioner is hereby authorized to charge payment for any unpaid or underpaid fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Geza C. Ziegler, Jr.
Reg. No. 44,004

18 May 2005
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800 Ext. 134
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to MAIL STOP RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 18 May 2005

Signature: Meaghan Bayle
Person Making Deposit